

1 **BACKGROUND CHECKS FOR DIVISION OF**
2 **SERVICES FOR PEOPLE WITH**
3 **DISABILITIES**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Rebecca D. Lockhart**

7 Senate Sponsor: Gregory S. Bell

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the definition of a direct service worker in the Services for People
12 with Disabilities chapter of the Utah Human Services Code.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ expands the definition of a direct service worker to include an employee of the
16 Division of Services for People with Disabilities who provides services to a person
17 with a disability while the employee has physical access to the person; and

18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **62A-5-101**, as last amended by Chapters 46 and 351, Laws of Utah 2006

26
27 *Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **62A-5-101** is amended to read:

29 **62A-5-101. Definitions.**

30 As used in this chapter:

31 (1) "Approved provider" means a person approved by the division to provide
32 home-based services.

33 (2) "Board" means the Board of Services for People with Disabilities established in
34 accordance with Section 62A-1-105.

35 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
36 nature, including a cerebral vascular accident.

37 (b) "Brain injury" does not include a deteriorating disease.

38 (4) "Designated mental retardation professional" means:

39 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
40 who:

41 (i) (A) has at least one year of specialized training in working with persons with mental
42 retardation; or

43 (B) has at least one year of clinical experience with persons with mental retardation;

44 and

45 (ii) is designated by the division as specially qualified, by training and experience, in
46 the treatment of mental retardation; or

47 (b) a clinical or certified social worker licensed under Title 58, Chapter 60, Mental
48 Health Professional Practice Act, who:

49 (i) has at least two years of clinical experience with persons with mental retardation;

50 and

51 (ii) is designated by the division as specially qualified, by training and experience, in
52 the treatment of mental retardation.

53 (5) "Deteriorating disease" includes:

54 (a) multiple sclerosis;

55 (b) muscular dystrophy;

56 (c) Huntington's chorea;

57 (d) Alzheimer's disease;

58 (e) ataxia; or

59 (f) cancer.

60 (6) "Developmental center" means the Utah State Developmental Center, established in
61 accordance with Part 2, Utah State Developmental Center.

62 (7) "Direct service worker" means a person who provides services to a person with a
63 disability:

64 (a) when the services are rendered in:

65 (i) the physical presence of the person with a disability; or

66 (ii) a location where the person rendering the services has access to the physical

67 presence of the person with a disability; and

68 [~~(b) under:~~]

69 (b) (i) under a contract with the division; [~~or~~]

70 (ii) under a grant agreement with the division[-]; or

71 (iii) as an employee of the division.

72 (8) "Director" means the director of the Division of Services for People with
73 Disabilities.

74 (9) (a) "Disability" means a severe, chronic disability that:

75 (i) is attributable to:

76 (A) mental retardation;

77 (B) a condition that qualifies a person as a person with a related condition, as defined
78 in 42 C.F.R. 435.1009;

79 (C) a physical disability; or

80 (D) a brain injury;

81 (ii) is likely to continue indefinitely;

82 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
83 substantial functional limitation in three or more of the following areas of major life activity:

84 (I) self-care;

85 (II) receptive and expressive language;

86 (III) learning;

87 (IV) mobility;

88 (V) self-direction;

89 (VI) capacity for independent living; or

- 90 (VII) economic self-sufficiency; or
- 91 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
- 92 limitation in three or more of the following areas:
- 93 (I) memory or cognition;
- 94 (II) activities of daily life;
- 95 (III) judgment and self-protection;
- 96 (IV) control of emotions;
- 97 (V) communication;
- 98 (VI) physical health; or
- 99 (VII) employment; and

100 (iv) requires a combination or sequence of special interdisciplinary or generic care,
101 treatment, or other services that:

- 102 (A) may continue throughout life; and
- 103 (B) must be individually planned and coordinated.
- 104 (b) "Disability" does not include a condition due solely to:
- 105 (i) mental illness;
- 106 (ii) personality disorder;
- 107 (iii) hearing impairment;
- 108 (iv) visual impairment;
- 109 (v) learning disability;
- 110 (vi) behavior disorder;
- 111 (vii) substance abuse; or
- 112 (viii) the aging process.

113 (10) "Division" means the Division of Services for People with Disabilities.

114 (11) "Eligible to receive division services" or "eligibility" means qualification, based
115 on criteria established by the division in accordance with Subsection 62A-5-102(4), to receive
116 services that are administered by the division.

117 (12) "Endorsed program" means a facility or program that:

- 118 (a) is operated:
- 119 (i) by the division; or
- 120 (ii) under contract with the division; or

121 (b) provides services to a person committed to the division under Part 3, Admission to
122 Mental Retardation Facility.

123 (13) "Licensed physician" means:

124 (a) an individual licensed to practice medicine under:

125 (i) Title 58, Chapter 67, Utah Medical Practice Act; or

126 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

127 (b) a medical officer of the United States Government while in this state in the
128 performance of official duties.

129 (14) "Mental retardation" means a significant, subaverage general intellectual
130 functioning, that:

131 (a) exists concurrently with deficits in adaptive behavior; and

132 (b) is manifested during the developmental period as defined in the current edition of
133 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
134 Psychiatric Association.

135 (15) "Mental retardation facility" means a residential facility for a person with mental
136 retardation, that receives state or federal funds under Title XIX of the federal Social Security
137 Act, for the purpose of serving a mentally retarded person in this state.

138 (16) "Physical disability" means a medically determinable physical impairment that has
139 resulted in the functional loss of two or more of a person's limbs.

140 (17) "Public funds" means state or federal funds that are disbursed by the division.

141 (18) "Resident" means an individual under observation, care, or treatment in a mental
142 retardation facility.

Legislative Review Note
as of 11-15-06 2:30 PM

Office of Legislative Research and General Counsel

H.B. 211 - Background Checks for Division of Services for People with Disabilities

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. Costs associated with implementation of this bill will be handled by the Division of Services for People with Disabilities reallocating cost savings in the employee training program.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Businesses contracting with the Division of Services for People with Disabilities will be responsible for completing the background checks on their staff at a cost of \$50 per person.

1/3/2007, 9:46:41 AM, Lead Analyst: Headden, D.

Office of the Legislative Fiscal Analyst